SUBJECT: Proposed Permanent Closure and Transfer of a portion of a Temporary Road being Blocks 157, 158, 159, 160 and 161 on Plan 62M-1065, Meadowlands of Ancaster (Phase 8), Ancaster (PW09072/PED09259) - (Ward 12)

RECOMMENDATION:

(a) That the application to permanently close and transfer a portion of the temporary road being Blocks 157, 158, 159, 160 and 161 on Plan 62M-1065, be approved;

(b) That the draft by-law outlined in Report PW09072/PED09259 as Appendix A be introduced, read, and passed;

(c) That the City Solicitor be authorized and directed to register a certified copy of the by-law permanently closing the highway in the proper Land Registry Office;

(d) That the by-law permanently closing the highway does not take effect until a certified copy of the by-law is registered in the proper Land Registry Office.
EXECUTIVE SUMMARY:
The purpose of this report is to address an application to permanently close a portion of the road allowance being Blocks 157, 158, 159, 160 and 161 on Plan 62M-1065 in the Meadowlands of Ancaster Subdivision (Phase 8). These lands were acquired by the City for the purpose of establishing a temporary roadway in accordance with a Subdivision Agreement dated December 23, 2005. The Subdivision Agreement stipulates that these lands be permanently closed and transferred back to the Developer when a second access road has been established. The second access road has now been established, and the temporary roadway is no longer required. The City is now contractually obligated to return the lands to the Developer, who remains the abutting land owner and who will assume responsibility for the lands.

BACKGROUND:
The information/recommendations contained within the report primarily affect Ward 12. The Development Engineering Division of the Planning and Economic Development has made a request to permanently close a portion of the road allowance being Blocks 157, 158, 159, 160 and 161 on Plan 62M-1065 in the Meadowlands of Ancaster (Phase 8) Subdivision and transfer the lands back to the Developer as the lands are no longer required by the City.

The lands were acquired by the City for the purpose of establishing a temporary roadway into the Meadowlands Subdivision. The City and Landmart Realty Corp. entered into a Subdivision Agreement dated December 13, 2005 that stipulates that the lands be permanently closed and transferred back to the Developer when a second access road to the Development has been established. A second access road to the Development has now been established and as such, the City is contractually obligated to permanently close and transfer these lands back to the Developer pursuant to the terms of the Meadowlands Subdivision Agreement.

Notice was circulated to all affected City departments and utilities and no negative comments were received. The City will require a permanent easement for sewers and watermains over the entire width and length of Blocks 158 and 159. Hydro One advises that they will require a 5 metre wide easement on either side of the centre line for poles and anchors and overhead lines through Blocks 158 and 159.

Pursuant to the Public Notice bylaw, no public notice is required in these circumstances. No environmental assessment is required in this instance.

As the lands are no longer required by the City, and the Developer, who remains the abutting land owner, will assume responsibility for the lands, staff supports the closure and transfer of the lands to the Developer.

ANALYSIS/RATIONALE:
The closure and transfer will satisfy the Meadowlands of Ancaster (Phase 8) Subdivision Agreement - Schedule “D”. The Subdivision Agreement stipulates that these lands be permanently closed and transferred back to the Developer when a
second access road has been established. The second access road has now been established, and the temporary roadway is no longer required. The City is now contractually obligated to return the lands to the Developer, who remains the abutting land owner and who will assume responsibility for the lands.

**ALTERNATIVES FOR CONSIDERATION:**

As the City is contractually obligated to permanently close and transfer Blocks 157, 158, 159, 160 and 161 on Plan 62M-1065 in the Meadowlands Subdivision, Ancaster pursuant to the Subdivision Agreement between the City and Landmart Realty Corp., there are no alternatives for consideration.

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

The City Solicitor has prepared the by-law to permanently close the subject lands which is outlined in Report PW09072/PED09259 as Appendix A and will register this by-law in the Registry Office once Council has approved it. The City Solicitor will complete the transfer of the subject lands to the Developer for a nominal fee, described as a consideration fee in the subdivision agreement.

**POLICIES AFFECTING PROPOSAL:**

The lands must be permanently closed under the *Municipal Act* before they can be transferred. The closures and sale to the developer will fulfil the City of Hamilton Strategic Plan requirement of delivering municipal services and managing capital assets in a sustainable, innovative and cost effective manner. In addition, the closure and sale will fulfil the priorities established in Innovate Now! under the heading of “Communities” as it includes the requirement of establishing “mutually beneficial charters with external customers”.

**RELEVANT CONSULTATION:**

The Planning and Economic Development Department has requested the closure and transfer of the lands to move forward to fulfil the City’s obligations under the Subdivision Agreement.

The Ward Councillor has been circulated and supports the recommendation.

**CITY STRATEGIC COMMITMENT:**

By evaluating the “*Triple Bottom Line*”, (community, environment, economic implications) we can make choices that create value across all three bottom lines, moving us closer to our vision for a sustainable community, and Provincial interests.

Community Well-Being is enhanced. ☑ Yes ☐ No
The closing of the roadway will allow for additional housing which will enhance the development of the neighbourhood.

Environmental Well-Being is enhanced. ☐ Yes ☑ No
Economic Well-Being is enhanced. ☑ Yes ☐ No
The closing of the roadway will allow for additional residential units to be developed utilizing the existing infrastructure.

Does the option you are recommending create value across all three bottom lines?
☐ Yes ☑ No

Do the options you are recommending make Hamilton a City of choice for high performance public servants?
☐ Yes ☑ No
PROPOSED PERMANENT CLOSURE AND TRANSFER OF A PORTION OF MEADOWLANDS OF ANCASTER (PHASE 8)

CITY OF HAMILTON
PUBLIC WORKS DEPARTMENT

LEGEND

SUBJECT LAND

SCALE NOT TO SCALE
DATE 2009-09-09
REFERENCE FILE NO: PW09072/PED09259
Being a By-law to Permanently Close a Portion of Road Allowance, being Blocks 157, 158, 159, 160 and 161, established by Registered Plan 62M-1065, Town of Ancaster, now City of Hamilton

WHEREAS the Council of the City of Hamilton is empowered under Sections 10(2) and 34 of the Municipal Act, 2001, S.O. 2001, c.25 as amended, to permanently close any highway or part of a highway;

AND WHEREAS the road is a highway under the jurisdiction of the City of Hamilton;

AND WHEREAS notice of the City’s intention to pass this By-law has been published pursuant to the Municipal Act, 2001, S.O. 2001, c.25 as amended.

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. That the part of the road allowance, set out as:

   Blocks 157, 158, 159, 160 and 161, established by Registered Plan 62M-1065, Town of Ancaster, now City of Hamilton

   is hereby permanently closed.

2. That the soil and freehold of Blocks 157, 158, 159, 160 and 161, Plan 62M-1065, hereby permanently closed, be transferred to Landmart Realty Corp.

PASSED AND ENACTED on this 16th day of September, 2009.

Fred Eisenberger  Kevin C. Christenson
Mayor  City Clerk